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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,431	11/30/2000	Mehryar Khalili Garakani	2705-135	6083
20575	7590	02/07/2006	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			NGUYEN, HANH N	
			ART UNIT	PAPER NUMBER
			2668	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/728,431	Applicant(s) GARAKANI ET AL.	
	Examiner Hanh Nguyen	Art Unit 2668	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-32, 34-36 and 38-40 is/are rejected.
- 7) ☒ Claim(s) 33 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



**HANH NGUYEN
PRIMARY EXAMINER**

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-32, 34-36 and 38-40 are rejected under 35 USC 102(e) as being unpatentable over Nicol (US Pat. No. 6,757,367 B1) in view of Fayad et al. (US Pat. 6,757,250B1).

In claims 26, 29, 30, 31, 35, 39 and 40, Nicol discloses, in Fig. 12, a data relay mode which provides synchronizing between a calling modem 180a and an answer modem 180b across packet-base network 181 using V.42 synchronization (See col.26, line 55 to col.27, line 5 and col.36, lines 30-35) (synchronously exchange data between V.42 entity on the local modem and a V.42 entity on the remote modem). The calling modem and answer modem compress data with V.42; see col.36, lines 65-67 (suppressing modem signals from a local modem).

A call negotiator 200 (Fig. 13) determines the type and capability of calling modem (parameters from local modem) as well as the answer modem; see col.27, lines 50-60 (negotiating physical layer parameters on the local modem). Call negotiator 200 sends data signals ANSam answer tone to local/calling modem (transmitting a signal to the local modem). See col.28, lines 1-7. Nicol does not disclose negotiating parameters with V.42 entity on the local modem and sending a ready signal to the local modem when negotiation is complete.

Fayad et al. discloses, in Fig.3, a protocol negotiation using V.42. between modems 302 and 304. Parameters such as K, N401 and HDLC are used; see col.7, line 65 to col.8, line 22 (negotiating parameters with V.42 entity on the local modem). A receive-ready message (a ready signal) is sent to modem 302 from gateway 306 indicating that the modem 302 may transmit user data, see col.9, lines 2-15) (sending a ready message after the negotiations have been completed). In opposite, a receive-not-ready frame (a not ready message) is transmitted to modem 302 indicating that a busy condition exists and prevents the modem 302 from transmitting any data until the link between gateway 308 and 306 is established; (transmitting a not-ready signals to the local modem until a ready signal is received from the remote gateway, see col.8, lines 40-50). Therefore, it would have been obvious to one skilled in the art to modify the Nicol by combining the transmission of RNR and RR frames suggested by Fayad et al. in order to negotiate transmission protocols and synchronize the calling and answer modems.

In claims 32 and 36, Nicol discloses detecting a loss of synchronization and performing a resynchronization (voice synchronizer 90 in fig.6 invokes the loss packet to be recovered during voicer packet loss and silence periods. In addition, voice synchronizer 90 invokes a number of mechanisms to compensate for delay jitter if the packet sequences are not in order; see col.10, lines 25-40).

In claims 34 and 38, Nicol does not discloses the command is a Set Asynchronous Balance Mode Extended (SABME) message compliant with ITU-T V.42 protocol. Fayad et al. discloses , in Fig.6, the initiate data transfer command is a Set Asynchronous Balance Mode Extended (SABME) message compliant with ITU-T V.42 (see col.7, lines 55-65). Therefore, it would have been obvious to one ordinary skilled in the art to use the SABME message

compliant with ITU-T V.42 of Fayad et al. into the Nicol in order to negotiate protocols between modem and gateways.

Allowable Subject Matter

Claims 33 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

In claims 33 and 37, the prior art does not disclose relaying a destructive break condition to the remote gateway and discarding any data in transit prior to the destructive break.

Response to Arguments

Applicant's arguments with respect to claims 26-40 have been considered. Claims 26-32, 34-36 and 38-40 are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

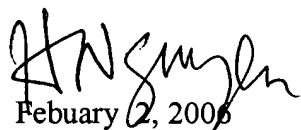
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number 571 272 3092. The examiner can normally be reached on Monday-Friday from 8:00AM to 5:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on 571 272 3179. The fax phone number for the organization where this application or proceeding is assigned is 571 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hanh Nguyen


February 2, 2006

HANH NGUYEN
PRIMARY EXAMINER